

United States
Circuit Court of Appeals
For the Ninth Circuit.

JOHN CVITZKOVICH,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

Transcript of Record.

UPON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON,
NORTHERN DIVISION.

FILED

AUG 27 1929

PAUL P. O'BRIEN,
CLERK

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Circuit Court of Appeals
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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF COUNSEL OF
RECORD.

FRED C. BROWN, Esq., 505 McDowell Building,
Seattle, Washington,
Attorney for Appellant.

ANTHONY SAVAGE, Esq., 310 Federal Build-
ing, Seattle, Washington, H. P. DODD, Esq.,
310 Federal Building, Seattle, Washington,
Attorneys for Appellee. [1*]

Wash. 9079.

United States District Court, Western District of
Washington, Northern Division.

November, 1928, Term.

No. 400,007:

UNITED STATES OF AMERICA,
Plaintiff,

vs.

JOHN CIVITKOVICH,
Defendant.

*Page-number appearing at the foot of page of original certified
Transcript of Record.

INDICTMENT.

Vio. Act of Oct. 28, 1919, Known as the National Prohibition Act.

United States of America,
Western District of Washington,
Northern Division,—ss.

The grand jurors of the United States of America, being duly selected, impaneled, sworn and charged to inquire within and for the Northern Division of the Western District of Washington, upon their oaths present: [2]

COUNT I.

That JOHN CIVITKOVICH, on the eleventh day of August, in the year of our Lord one thousand nine hundred and twenty-eight, at the city of Seattle, in the Northern Division of the Western District of Washington, and within the jurisdiction of this court, then and there being, did then and there knowingly, willfully and unlawfully sell certain intoxicating liquor, to wit, four (4) ounces of a certain liquor known as whiskey, then and there containing more than one-half of one per centum or alcohol by volume and then and there fit for use for beverage purposes, a more particular description of the amount and kind whereof being to the said grand jurors unknown, and which said sale by the said JOHN CIVITKOVICH, as aforesaid, then and there unlawful and prohibited by the Act of Congress passed October

28, 1919, known as the National Prohibition Act; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America. [3]

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

COUNT II.

That JOHN CIVITKOVICH, on the eleventh day of August, in the year of our Lord one thousand nine hundred and twenty-eight, at the city of Seattle, in the Northern Division of the Western District of Washington, and within the jurisdiction of this court, then and there being, did then and there knowingly, willfully, and unlawfully have and possess certain intoxicating liquor, to wit, one (1) pint of a certain liquor known as whiskey, then and there containing more than one-half of one per centum of alcohol by volume and then and there fit for use for beverage purposes, a more particular description of the amount and kind whereof being to the grand jurors unknown, intended then and there by the said JOHN CIVITKOVICH for use in violating the Act of Congress passed October 28, 1919, known as the National Prohibition Act, by selling, bartering, exchanging, giving away, and furnishing the said intoxicating liquor, which said possession of the said intoxicating liquor by the said JOHN CIVITKOVICH, as aforesaid, was then and there unlawful and prohibited by the Act of Congress known as the National Prohibition Act; contrary to the form of the statute in such

case made and provided, and against the peace and dignity of the United States of America. [4]

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

COUNT III.

That prior to the commission by the said JOHN CIVITKOVICH of the said offense of possessing intoxicating liquor herein set forth and described in manner and form as aforesaid, said JOHN CIVITKOVICH, on the 28th day of February, 1928, in cause No. 11,899, at Seattle, in the United States District Court for the Western District of Washington, Northern Division, was duly and regularly convicted of the first offense of possessing intoxicating liquor on the 12th day of September, 1927, in violation of the said Act of Congress known as the National Prohibition Act; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America. [5]

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

COUNT IV.

That JOHN CIVITKOVICH, on the thirteenth day of August, in the year of our Lord one thousand nine hundred and twenty-eight, at the city of Seattle, in the Northern Division of the Western District of Washington, and within the jurisdiction of this court, then and there being, did then and there knowingly, willfully and unlawfully sell

certain intoxicating liquor, to wit, two (2) ounces of a certain liquor known as whiskey, then and there containing more than one-half of one per centum or alcohol by volume and then and there fit for use for beverage purposes, a more particular description of the amount and kind whereof being to the said grand jurors unknown, and which said sale by the said JOHN CIVITKOVICH, as aforesaid, then and there unlawful and prohibited by the Act of Congress passed October 28, 1919, known as the National Prohibition Act; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America. [6]

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

COUNT V.

That prior to the commission by the said JOHN CIVITKOVICH of the said offenses of selling intoxicating liquor herein set forth and described in manner and form as aforesaid, said JOHN CIVITKOVICH, on the 28th day of February, 1928, in cause No. 11899, at Seattle, in the United States District Court for the Western District of Washington, Northern Division, was duly and regularly convicted of the first offense of selling intoxicating liquor on the 12th day of September, 1927, in violation of the said Act of Congress known as the National Prohibition Act; contrary to the form of the statute in such case made and provided, and

against the peace and dignity of the United States of America. [7]

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

COUNT VI.

That JOHN CIVITKOVICH, from the eleventh day of August to the thirteenth day of August, inclusive, in the year of our Lord one thousand nine hundred and twenty-eight, at the city of Seattle, in the Northern Division of the Western District of Washington, and within the jurisdiction of this court, and at a certain place or rooms situated at 520 Jackson Street, Seattle, Washington, then and there being, did then and there and therein knowingly, willfully, and unlawfully conduct and maintain a common nuisance by then and there manufacturing, keeping, selling and bartering intoxicating liquors, to wit, whiskey, and other intoxicating liquors containing more than one-half of one percentum of alcohol by volume and fit for use for beverage purposes, and which said maintaining of such nuisance by the said JOHN CIVITKOVICH, as aforesaid, was then and there unlawful and prohibited by the Act of Congress passed October 28, 1919, known as the National Prohibition Act; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

ANTHONY SAVAGE,

United States Attorney.

PAUL D. COLES,

Assistant United States Attorney. [8]

[Endorsed]: A true bill,

H. C. BELL,
Foreman Grand Jury.
ANTHONY SAVAGE,
U. S. Atty.

Presented to the Court by the foreman of the Grand Jury in open court, in the presence of the Grand Jury, and filed in the U. S. District Court, Jan. 16, 1929.

ED. M. LAKIN,
Clerk.
S. E. Leitch,
Deputy. [9]

[Title of Court and Cause.]

VERDICT.

We, the jury in the above-entitled cause, find the defendant, John Civitkovich, is guilty as charged in Count I of the indictment herein; and further find the defendant, John Civitkovich is guilty as charged in Count II of the indictment herein and further find the defendant, John Civitkovich, is guilty as charged in Count III of the indictment herein; and further find the defendant, John Civitkovich, is guilty as charged in Count IV of the indictment herein; and further find the defendant, John Civitkovich, is guilty as charged in Count V of the indictment herein and further find the de-

fendant, John Civitkovich, is guilty as charged in Count VI of the indictment herein.

ROBERT HOWES,

Foreman.

[Endorsed]: Filed June 13, 1929. [10]

[Title of Court and Cause.]

SENTENCE.

Comes now on this 13th day of June, 1929, the said defendant, John Civitkovich, into open court for sentence and being informed by the Court of the charges herein against him and of his conviction of record herein, he is asked whether he has any legal cause to show why sentence should not be passed and judgment had against him and he nothing says save as he before hath said, wherefore by reason of the law and the premises, it is considered, ordered and adjudged by the Court that the defendant is guilty of selling intoxicating liquor as charged in Counts 1 and 4 of the indictment; of possession of intoxicating liquor as charged in Count 2 of the indictment; of prior conviction of possession of intoxicating liquor as charged in Count 3 of the indictment; of prior conviction of selling intoxicating liquor as charged in Count 5 of the indictment, and of maintaining a common nuisance, in violation of the Act of October 28, 1919, known as the National Prohibition Act, and that he be punished by being imprisoned in the

Jefferson County Jail or in such other prison as may be hereafter provided for the confinement of persons convicted of offenses against the laws of the United States for the period of four (4) months and to pay a fine of \$250.00; and the defendant is hereby remanded into the custody of the United States Marshall to carry this sentence into execution.

Judgment & Decree, Vol. 6, page 255. [11]

[Title of Court and Cause.]

MOTION FOR NEW TRIAL.

Comes now the defendant, John Civitkovich, and moves the Court to set aside the verdict of the jury heretofore entered herein, and grant a new trial, on the following grounds:

I.

Errors of law occurring during the trial, and excepted to by the attorney for the defendant.

This motion is based upon the records, files, and proceedings herein and upon the accompanying affidavit of John Civitkovich.

FRED C. BROWN,
Attorney for Defendant.

Office and P. O. Address:

505 McDowell Building, Seattle.

[Endorsed]: Received a copy of the within motion this 14th day of June, 1929.

ANTHONY SAVAGE

Attorney for Pltff.

[Endorsed]: Filed Jun. 14, 1929. [12]

[Title of Court and Cause.]

AFFIDAVIT OF JOHN CVITZKOVICH.

State of Washington,
County of King—ss.

John Cvitzkovich, being first duly sworn, upon oath, deposes and says: That he is the defendant in the above-entitled action; that he was arrested on the evening of November 27, 1928, at 520 Jackson Street by Federal Prohibition Officers Whitney and Corvin; that at the time of his arrest he did not have possession of any intoxicating liquor; that said Federal Prohibition Officers had arrested another man about one-half block away from 520 Jackson Street who had the possession of intoxicating liquor and said officers brought said party into 520 Jackson Street and placed affiant under arrest. That at said time and in the hearing and presence of the defendant Federal Prohibition Officer Whitney remarked to Federal Prohibition Officer Corvin that they had no case against defendant and in response to that statement Federal Prohibition Officer Corvin said, "Hell, I'll make a case against him." That if defendant had been permit-

ted to testify he would so testify and had a witness in court who was present and heard said conversation.

JOHN CVITZKOVICH.

Subscribed and sworn to before me this 13th day of June, 1929.

[Seal] FRED C. BROWN,
Notary Public in and for the State of Washington,
Residing at Seattle. [13]

[Title of Court and Cause.]

AFFIDAVIT OF FRED C. BROWN.

State of Washington,
County of King,—ss.

Fred C. Brown, being first duly sworn, upon oath, deposes and says: That he is the attorney for the above-named defendant; that after the arrest of the defendant, in conversation with Federal Prohibition Officer Corvin he stated to affiant that he did not contend that the liquor found upon the party that was brought in to 520 Jackson Street in the presence of John Cvitzkovich, had any relation to said John Cvitzkovich and that said John Cvitzkovich had nothing to do with that transaction.

FRED C. BROWN.

Subscribed and sworn to before me this 14 day of June, 1929.

[Seal] EMMETT G. LENIHAN,
Notary Public in and for the State of Washington,
Residing at Seattle.

[Endorsed]: Received a copy of the within affidavit this 14th day of June, 1929.

ANTHONY SAVAGE,
Attorney for Pltff.

[Endorsed]: Filed Jun. 14, 1929. [14]

[Title of Court and Cause.]

STIPULATION RE QUESTION PRO-
POUNDED TO FRED C. BROWN.

IT IS HEREBY STIPULATED by and between the United States District Attorney, representing the plaintiff, and Fred C. Brown, representing the defendant, that while John Cvitzkovich was a witness in his own behalf, a question was propounded to said defendant by Mr. Fred C. Brown to relate the conversation in his presence between Federal Prohibition Officer Whitney and Federal Prohibition Officer Corvin as to what was said at the time of his arrest; that the Court ob-

jected and refused to permit witness to answer and exception taken.

ANTHONY SAVAGE,
District Attorney.
By HAMLET P. DODD,
His Deputy.
FRED C. BROWN,
Attorney for Defendant.

[Endorsed]: Received a copy of the within stipulation this 14th day of June, 1929.

ANTHONY SAVAGE,
Attorney for Pltff.

[Endorsed]: Filed Jun. 14, 1929. [15]

[Title of Court and Cause.]

EXCEPTION TO DENIAL OF NEW TRIAL.

Comes now the above-named defendant and excepts to the ruling of the Court denying defendant a new trial.

FRED C. BROWN,
Attorney for Defendant.

[Endorsed]: Received a copy of the within exception this 20th day of June, 1929.

ANTHONY SAVAGE,
Attorney for Pltff.

[Endorsed] Filed Jun. 20, 1929. [17]

PETITION FOR WRIT OF ERROR OF DEFENDANT, JOHN CVITZKOVICH.

To the Honorable GEORGE M. BOURQUIN,
Judge of the Above-entitled Court:

John Cvitzkovich, by his attorney, Fred C. Brown, respectfully petitions that on the 13th day of June, 1929, the United States District Court for the Western District of Washington, Northern Division, gave judgment against your petitioner in the above-entitled cause; wherein, as appears from the facts of the record of proceedings herein, certain errors were committed which are more fully set forth in the assignment of errors herein;

NOW, THEREFORE, to the end that said matters may be reviewed and said errors corrected by the Circuit Court of Appeals for the Ninth Circuit, your petitioner prays for an allowance of a writ of error, and such other orders and processes as may cause all and singular the record and proceedings in said cause be sent to the Honorable Justices of the Circuit Court of Appeals for the Ninth Circuit, for review and correction;

And that an order be made, staying and suspending all further proceedings herein, pending the determination of said writ of error by said Circuit Court of Appeals. Provided, the record be filed in said court within 30 days herefrom.

FRED C. BROWN,
Attorney for Defendant, John Cvitzkovich.

[Endorsed]: Received a copy of the within petition this 15th day of June, 1929,

ANTHONY SAVAGE,

Attorney for Pltff.

[Endorsed]: Filed Jun. 20, 1929. [18]

[Title of Court and Cause.]

ASSIGNMENT OF ERRORS.

Comes now the defendant, John Cvitzkovich, by his attorney Fred C. Brown, and in connection with his petition for a writ of error herein assigns the following errors, which he avers occurred at the trial of said causes and which were duly excepted by him, and upon which he relied to reverse the judgment entered herein against him:

I.

The District Court erred in refusing to permit the defendant from testifying to the conversation between Federal Prohibition Officers Whitney and Corvin at the time of the defendant's arrest.

II.

The District Court erred in denying defendant's motion for new trial.

III.

The District Court erred in pronouncing judgment upon the defendant, John Cvitzkovich.

WHEREFORE, the said defendant, John Cvitz-

kovich, plaintiff in error, prays that the judgment: of said Court be reversed, and this cause be remanded to said District Court with instructions to dismiss the same and discharge the plaintiff in error from custody and exonerate the sureties on his bail bond; and for such other and further relief as to the Court seems proper.

FRED C. BROWN,
Attorney for Defendant, John Cvitzkovich. [19]

[Endorsed]: Received a copy of the within assignment of errors this 15th day of June, 1929.

ANTHONY SAVAGE,
Attorney for Pltff.

[Endorsed]: Filed Jun. 20, 1929. [20]

[Title of Court and Cause.]

ORDER ALLOWING WRIT OF ERROR.

The plaintiff in error having duly presented his petition for a writ of error and assignments of error to the Circuit Court of Appeals, having duly issued and the Court having duly fixed the bond of plaintiff in error in the sum of fifteen hundred dollars (\$1500.00), and said bond having been duly filed and approved; now, on motion of plaintiff in error,

IT IS ORDERED that the execution of the judgment herein be stayed, pending the determination of the writ of error in the Circuit Court of Appeals for the Ninth Circuit.

Done in open court this 20th day of June, 1929.

BOURQUIN,

Judge.

[Endorsed]: Received a copy of the within order this 15th day of June, 1929,

ANTHONY SAVAGE,

Attorney for Pltff.

[Endorsed]: Filed Jun. 20, 1929. [21]

[Title of Court and Cause.]

BOND OF JOHN CVITZKOVICH (APPEAL
ON A STAY).

KNOW ALL MEN BY THESE PRESENTS, that we John Cvitkovich, as principal, and the American Bonding Company of Baltimore, as surety, jointly and severally acknowledge ourselves to be indebted to the United States of America in the sum of fifteen hundred dollars (\$1500.00), lawful money of the United States, to be levied on our goods and chattels, land and tenements, upon the following conditions:

THE CONDITION OF THIS OBLIGATION IS SUCH, that WHEREAS, the above-named defendant John Cvitkovich was on the 13th day of June, 1929, sentenced in the above-entitled court as follows:

Four (4) months in the county jail and a fine of two hundred fifty Dollars (\$250.00) and costs.

AND WHEREAS, said defendant has sued out a writ of error to the Circuit Court of Appeals of the United States for the Ninth Circuit to review said judgment,

AND WHEREAS, the above-entitled court has fixed the defendant's bond to stay execution of said judgment in the amount of fifteen hundred dollars (\$1500.00).

NOW, THEREFORE, if the said defendant John Cvitzkovich pays the fine and costs and shall diligently prosecute said writ of error and shall render himself amenable to all orders which said Circuit Court of Appeals shall make or order to be made in the premises, and to all process issued or ordered to be issued by said Circuit Court of Appeals, and shall not leave the jurisdiction of this court without permission being first granted and shall render himself amenable to any and all orders made or entered by the District Court of the United States for the Western District of Washington, Northern Division, then this obligation shall be void, otherwise to remain in full force and effect.

JOHN CVITZKOVICH,
Principal.

By FRED C. BROWN,
His Attorney.

[Seal]

AMERICAN BONDING COMPANY OF
BALTIMORE.

By BLANCHE RISING,
Attorney-in-fact.

Approved.

BOURQUIN, J. [22]

[Endorsed]: Filed Jun. 20, 1929. [23]

[Title of Court and Cause.]

BILL OF EXCEPTIONS.

BE IT REMEMBERED, That this cause came on regularly for trial on this, the 12th day of June, 1929, before the Honorable George M. Bourquin, one of the Judges of the above-entitled court, sitting with a jury, duly empaneled and sworn; the plaintiff appearing by Anthony Savage and H. P. Dodd, Esqs., District Attorney and Assistant District Attorney, respectively; and the defendant appearing by Fred C. Brown, Esq., his counsel; whereupon the following testimony was offered and the proceedings had, as appears herewith by stipulation for counsel for the Government and the defendant, to wit: [24]

TESTIMONY OF H. E. DAGGETT, FOR THE
GOVERNMENT.

H. E. DAGGETT, produced as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct Examination.

That in August, 1928, he was a Federal Prohibition Officer and is still holding that position; that

on the 11th day of August, 1928, he visited the premises at 520 Jackson Street, which is a pool hall and soft drink place; that he entered there with another person and witness asked one John Kuchin if he could get a drink of whisky. John Kuchin replied to witness that he could if he had any money. Witness and the man who was with him, and John Kuchin went into a room in the rear and were served two drinks each of whisky for which he paid the sum of twenty-five cents (25¢) per drink.

That witness and his friend left and witness returned alone in the afternoon and met defendant, who served him one drink of whisky in the back room for which he paid twenty-five cents (25¢).

That on the 13th day of August, witness returned to said place with his brother and purchased from defendant another drink and paid defendant twenty-five cents (25¢).

Under cross-examination witness stated that he had had other drinks of liquor at other places on the 11th and 13th of August. That he visited these premises only on these two occasions.

It was then stipulated in open court by the respective attorneys, that the defendant admitted that he was the defendant in counts three (3) and five (5) of the indictment.

Whereupon the Government rested. [25]

TESTIMONY OF JOHN CVITKOVICH, FOR
DEFENDANT.

JOHN CVITKOVICH, the defendant, on behalf of himself, being first duly sworn, testified as follows:

Direct Examination.

(By Mr. BROWN.)

That his name was John Cvitkovich; that he denied that he sold any intoxicating liquor whatever to H. E. Daggett.

That the first time he ever saw Daggett was when he was produced as a witness on the witness-stand at the time of the trial. That he does not recall whether he was in Seattle in August, 1928, as some time in the latter summer of 1928 he was away from Seattle and at Cle Elum, Washington. That he denied that he ever sold any intoxicating liquor to any person at 520 Jackson Street at any time.

That he was arrested on Thanksgiving evening at 520 Jackson Street; that at that time there was no liquor on the premises and defendant had not committed any violation of law. That Federal Prohibition Officer Whitney and Federal Prohibition Officer Corvin came there with some man who had been arrested about a block away who had the possession of intoxicating liquor, and Mr. Corvin at that time put defendant under arrest.

He was then asked to relate the conversation between Mr. Whitney and Mr. Corvin in defend-

ant's presence. Whereupon the Court refused to allow the defendant to answer.

Whereupon counsel for defendant informed the Court that he did not like to make a statement in detail in the presence of the jury as to just the conversation between Mr. Whitney and Mr. Corvin, but in substance the evidence would show that Mr. Whitney made the statement that they had no case against defendant, and the answer of Mr. Corvin would show that there was no case against defendant up to that time. Whereupon the Court interrupted and stated that any conversation of Mr. Corvin was not admissible unless Mr. Corvin was a witness in behalf of the Government. [26]

Exception was taken and defendant was cross-examined by Mr. Dodd.

On cross-examination defendant admitted that he was not interested in, or the owner of the premises at 520 Jackson Street; that the proprietor, at the time of his arrest, had requested defendant to look after the place because he had to go out of town. That defendant, on a number of occasions, had worked around the place and did not know where he was in August, 1928.

The defendant rested.

The Government rested.

After argument of respective counsel the Court instructed the jury.

Jury retires.

IT IS HEREBY STIPULATED, by and between Anthony Savage, United States District At-

torney, by H. P. Dodd, Assistant United States District Attorney, on behalf of the United States District Attorney, and Fred C. Brown, attorney for the defendant, that the foregoing proceedings were the proceedings and evidence and offer made by the attorney for the defendant in the trial of the above case and is a true and correct statement of the evidence and proceedings during the course of the trial of the defendant in said action.

ANTHONY SAVAGE,

United States District Attorney.

By HAMLET P. DODD,

Asst. United States District Attorney.

FRED C. BROWN,

Attorney for Defendant. [27]

Settled as complete and correct.

BOURQUIN,

Judge.

[Endorsed]: Received a copy of the within bill of exceptions this 28th day of June, 1929.

ANTHONY SAVAGE,

Attorney for Pltff.

[Endorsed]: Lodged and also filed June 23, 1929.
[28]

[Title of Court and Cause.]

PRAECIPE FOR PROCESS.

To the Clerk of the Above-entitled Court:

You will please record including (1) Indictment, (2) Verdict, (3) Judgment, (4) Motion for new

trial and affidavits and stipulation attached, (6) Exception to denial of new trial, (7) Petition for writ of error, (8) Assignment of errors, (9) Citation on writ of error, (11) Order allowing writ of error, (12) Bond on appeal, (13) Bill of exceptions.

[Endorsed]: Filed Jul. 1, 1929. [29]

[Title of Court and Cause.]

CERTIFICATE OF CLERK U. S. DISTRICT
COURT TO TRANSCRIPT OF RECORD.

United States of America,
Western District of Washington,—ss.

I, Ed. M. Lakin, Clerk of the United States District Court for the Western District of Washington, do hereby certify this typewritten transcript of record, consisting of pages numbered from 1 to 30, inclusive, to be a full, true, correct and complete copy of so much of the record, papers and other proceedings in the above and foregoing entitled cause, as is required by praecipe of counsel, filed and shown herein, as the same remain of record and on file in the office of the Clerk of said District Court, and that the same constitute the record on appeal herein from the judgment of the said United States District Court for the Western District of Washington to the United States Circuit Court of Appeals for the Ninth Circuit.

I further certify the following to be a full, true and correct statement of all expenses, costs, fees

and charges incurred and paid in my office by or on behalf of the appellant herein, for making record, certificate or return to the United States Circuit Court of Appeals for the Ninth Circuit in the above-entitled cause, to wit: [30]

Clerk's fees (Act Feb. 11, 1925), for making record, certificate or return, 40 folios at 15¢	\$6.00
Certificate of Clerk to Transcript of Record with seal50

Total	\$6.50

I hereby certify that the above cost for preparing and certifying record, amounting to \$6.50 has been paid to me by the attorney for appellant.

I further certify that I attach hereto and transmit herewith the original citation issued in this cause.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the official seal of said District Court, at Seattle, in said District this 8th day of July, 1929.

[Seal] ED. M. LAKIN,
Clerk U. S. District Court, Western District of Washington.

By S. E. Leitch,
Deputy. [31]

[Title of Court and Cause.]

CITATION ON WRIT OF ERROR.

To the United States of America, GREETING:

You are hereby cited and admonished to be and appear in session of the United States Circuit Court of Appeals for the Ninth Circuit to be holden at the city of San Francisco, State of California, within thirty (30) days from the date hereof, pursuant to a writ of error filed in the Clerk's office in the United States District Court for the Western District of Washington, Northern Division, wherein John Cvitzkovich is plaintiff in error and the United States of America is defendant in error, to show cause, if any there be, why the judgment rendered against this defendant, as in said writ of error mentioned, should not be corrected and why speedy justice should not be done the party in that behalf.

WITNESS the Honorable GEORGE M. BOURQUIN, Judge of the District Court of the United States for the Western District of Washington, this 20 day of June, 1929.

[Seal]

BOURQUIN,
District Judge.

Received a copy of the within citation this 15 day of June, 1929.

ANTHONY SAVAGE,
Attorney for Pltff.

[Endorsed]: Filed Jun. 20, 1929. [32]

[Endorsed]: No. 5919. United States Circuit Court of Appeals for the Ninth Circuit. John Cvitzkovich, Appellant, vs. United States of America, Appellee. Transcript of Record. Upon Appeal from the United States District Court for the Western District of Washington, Northern Division.

Filed August 19, 1929.

PAUL P. O'BRIEN,
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

